

PETITION TO:

UNITED NATIONS
WORKING GROUP ON ARBITRARY DETENTION

Chairman/Rapporteur: Mr. Mads Andenas (Norway)
Vice-Chairperson: Mr. Vladimir Tochilovsky (Ukraine)
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HUMAN RIGHTS COUNCIL
UNITED NATIONS GENERAL ASSEMBLY

In the Matter of
Wu Zeheng and 18 Others
Citizens of the People's Republic of China
v.
Government of the People's Republic of China

URGENT ACTION REQUESTED

And Petition for Relief Pursuant to Resolutions 1997/50, 2000/36, 2003/31, 6/4, 15/18, 20/16,
24/7¹

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¹ Resolutions 1997/50, 2000/36, and 2003/31 were adopted by the UN Commission on Human Rights extending the mandate of the Working Group on Arbitrary Detention. The Human Rights Council, which “assume[d]... all mandates, mechanisms, functions and responsibilities of the Commission on Human Rights...” pursuant to UN General Assembly Resolution 60/251, G.A. Res. 60/251, ¶ 6 (Mar. 15, 2006), has further extended the mandate through Resolution 6/4, 15/18, 20/16, and 24/7.

BASIS FOR “URGENT ACTION” REQUEST

As set forth in the attached Petition, the Chinese Government is arbitrarily depriving Wu Zeheng and his associates of their liberty. Wu Zeheng, also known as Buddhist Zen Master Shi Xingwu, is a prominent Chinese Buddhist leader with millions of followers in China, Taiwan, and around the world.

There is reason to believe that Wu Zeheng and his associates' lives and health may be in serious danger. They were taken into custody on July 30, 2014, after the police staged a coordinated raid on a number businesses and living compounds run by members of the Buddhist Sect, Huazang Dharma. In the first 24 hours of his detention Wu Zeheng was kept awake for 16 hours, denied any food, and water, and consecutively questioned by four different groups of police officers. He is currently being held in a small cell with no bed or bedding materials, forced to sleep on a hard floor. He has been denied access to medication and warm clothing. Other details of his current situation in detention are unknown. The other eighteen detainees are being held in overcrowded rooms where they must take turns laying down to sleep. Previous attempts made by family members to deliver warm clothes to the detention centers have been denied.

This detention is the most recent act of the Chinese Government in a long-running campaign of repression against Wu Zeheng and his associates. Government officials have detained Wu Zeheng, tortured him, and repeatedly mistreated him, his students, and his associates on numerous occasions in the past. In 2000, Wu Zeheng was wrongly convicted of economic crimes and sentenced to eleven years in prison. While he earned five years of reductions based on his having met his work quotas during five different calendar years, he only received a five-month reduction over the entire length of his sentence. Wu Zeheng suffered immensely in prison, facing repeated and extensive torture. Specifically, he was subjected to prolonged sleep deprivation and interrogations, beatings, slave-labor conditions, and denied access to medical care.

The Chinese Government has a long history of criminalizing organized religion, as any type of faith-based civic organization outside of the five permitted, state-sanctioned groups is ruled a threat to the State. Wu Zeheng and anyone associated with the religion he leads have been a target of the Chinese Government ever since Wu Zeheng wrote a public letter to Chinese leaders calling for democracy and greater government transparency. As a result of his advocacy, Wu Zeheng and his associates have been accused of being an “evil cult” and thus repeatedly persecuted by the Government.

Accordingly, it is hereby requested that the Working Group consider this petition pursuant to its “Urgent Action” procedure.² In addition, it is requested that the attached Petition be considered a formal request for an opinion of the Working Group pursuant to Resolution 1997/50 of the Commission on Human Rights, as reconfirmed by Resolutions 2000/36, 2003/31, and Human Rights Council Resolutions 6/4, 15/18, 20/16, and 24/7.

**QUESTIONNAIRE TO BE COMPLETED BY PERSONS ALLEGING ARBITRARY
ARREST OR DETENTION**

I. IDENTITY

1. Family name: Wu

2. First name: Zeheng

3. Sex: Male

4. Birth date: July 18, 1967

5. Nationality: People’s Republic of China

6. (a) Identity document (if any): N/A

(b) Issued by: N/A

(c) On (date): N/A

(d) No.: N/A

7. Profession and/or activity (if believed to be relevant to the arrest/ detention):
Prominent Buddhist leader and businessman

8. Address of usual residence:

Yinshi Yayuan Condominium Complex

Zhuhai City

Guangdong Province

China

9. Others alleging arbitrary arrest or detention

² Report of the Working Group on Arbitrary Detention, U.N. Doc. A/HRC/16/47, Annex ¶ 7(b) (“Revised Methods of Work”) (Jan. 19, 2011), at ¶ 22–24 (*hereinafter* Revised Methods of Work).

1. Men Yue; female; age 44
2. Yuan Ming; female; age 38
3. Wu Haiwuan; male; age 35
4. Ni Zezhou; male; age 43
5. Zhao Weiping; male; age 55
6. Li Huichun; male; age 52
7. Zhang Guihong; male; age 47
8. Yi Shuhui; female; age; 49
9. Su Lihua; female; age 36
10. Sun Ni; female; age 45
11. Zhu Yi; female; age 38
12. Lu Hunye; female; age 38
13. Lin Zhanrong; male; age 43
14. Shang Hongwei; female; age 48
15. Ren Huining; female; age 26
16. Chen Sisi; female; age 33
17. Wang Ziyin; female; age 61
18. Liu Ruihong; female; age 40

II. ARREST

1. Date of arrest: July 30, 2014

2. Place of arrest (as detailed as possible): Personal Residence, Yinshi Yayuan Condominium Complex in Zhuhai City, Guangdong Province

3. Forces who carried out the arrest or are believed to have carried it out: Zhuhai Public Security Bureau, Xiangzhou Branch

4. Did they show a warrant or other decision by a public authority?
Formal arrest warrant was not issued until September 5, 2014

5. Authority who issued the warrant or decision: Zhuhai Public Security Bureau, Xiangzhou Branch

6. Relevant legislation applied (if known):

At the time, false information was provided: certain people were accused of suspicious activities, others for random crimes. 36 days after the initiation arrest, they were all informed that arrest warrant had been issued and they have been arrested under Article 300 of the Chinese Criminal Law. No one has actually been able to receive a physical copy of the warrant.

III. DETENTION

1. Date of detention: July 30, 2014

2. Duration of detention (if not known, probable duration):

Six months

3. Forces holding the detainee under custody:

Zhuhai Public Security Bureau, Xiangzhou Branch

4. Places of detention (indicate any transfer and present place of detention):

Zhuhai No. 2 Detention Center (Wu Zeheng; Li Huichun; Zhao Weiping; Zhang Guihong) and Zhuhai No. 1 Detention Center (all others)

5. Authorities that ordered the detention: Zhuhai Public Security Bureau

6. Reasons for the detention imputed by the authorities:

Charged with formation or activity of “superstitious sects or secret societies or weird religious organizations, which use superstition to undermine the implementation of the laws and administrative rules and regulations of the State.”

7. Relevant legislation applied (if known):

Article 300 of the Chinese Criminal Law, quoted above in response to question six

IV. DESCRIBE THE CIRCUMSTANCES OF THE ARREST AND/OR THE DETENTION AND INDICATE PRECISE REASONS WHY YOU CONSIDER THE ARREST OR DETENTION TO BE ARBITRARY

A. Statement of Facts³

1. China’s Crackdown on Religious Freedom, Human Rights, and the Rule of Law

Despite recent economic progress, the human rights situation in China remains bleak and is even worsening in some areas.⁴ In particular, the Chinese Government has escalated its detention and harassment of human rights activists, political dissidents, and religious leaders. In this climate, Government forces have resorted to Internet controls, home surveillance, arbitrary

³ Throughout this section, *see generally* the attached White Paper on Wu Zeheng.

⁴ *Ex-Mayor of Beijing Linked to Tiananmen Crackdown Dies*, B.B.C. NEWS, June 4, 2013, available at <http://www.bbc.co.uk/news/world-asia-china-22773481>.

arrests, and enforced disappearances to silence peaceful criticism of its policies.⁵

Chinese law facilitates the arbitrary deprivation of liberty by authorizing long periods of administrative detention. The police are legally permitted to detain individuals without arrest or charge for up to 37 days.⁶ Individuals may also be subjected to upwards of six months of “residential surveillance”—a *de facto* form of house arrest—regularly used to confine activists.⁷

The Chinese Government has increasingly targeted religious leaders and their associates, not only to forcibly silence their criticisms of the State, but also to deter their civil organizing. Communist party leadership has always felt uneasy regarding religion in China, viewing it as a threat to unity and an affront to the party’s atheism.⁸ In recent times, with conflict with the Muslim Uiyghur population in the Northwest and the burgeoning of a Christian Han population, the Chinese Government has looked to suppress the growth of religion in the country. In 2014, hundreds of churches were forced to take down the crosses on their buildings, as the display was considered too ostentatiously religious by Chinese authorities. In some cities, entire churches were razed.⁹ In addition to this, an increasing number of religious groups have been persecuted under China’s archaic Anti-Cult law. This law against “evil cults” has been used extensively to stifle religious freedom in the country, with the most prominent case being against worshippers of Falun Gong, a Taoism-based spiritual discipline that has been subject to a Chinese crackdown since 1999.¹⁰

2. Background of Wu Zeheng

Wu Zeheng, also known as Buddhist Zen Master Shi Xingwu, was born in Huilai, Guangdong Province, China, on July 18, 1967. He is the 88th Patriarch of Buddhism. He is also the 61st Patriarch of the Chan Sect, 51st Patriarch of the Caodong Sect, and 32nd Patriarch of the Sangha Sect.¹¹

⁵ U.S. State Dep’t. Country Reports on Human Rights, *China (includes Tibet, Hong Kong, and Macao) (2012)*, Apr. 19, 2013, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dclid=204193> [hereinafter *Country Reports*].

⁶ *Id.*, at § 1(d).

⁷ *Id.*

⁸ *Cracks in the Atheist Edifice*, THE ECONOMIST, Nov. 1, 2014, available at <http://www.economist.com/news/briefing/21629218-rapid-spread-christianity-forcing-official-rethink-religion-cracks>.

⁹ *Id.*

¹⁰ Guobin Zhu, *Prosecuting ‘Evil Cults’: A Critical Examination of Law Regarding Freedom of Religious Belief in Mainland China*, HUMAN RIGHTS QUARTERLY, Aug. 25, 2010, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1664950.

¹¹ An authentic lineage in Buddhism is the uninterrupted transmission of the Buddha’s Dharma (e.g., universal laws of nature which apply an understanding of the laws to human life) from teach to disciple. The transmission itself

After 11 years of Buddhist training in the Wuyi Mountains in China, he was granted the heritage of Dharma and became a leader in the Chinese Buddhist religion.¹² Three years after achieving a leadership role in the religion, in 1989, Wu Zeheng returned to the secular world to deliver the moral lessons and teachings of Buddhism to the broader population. It was during this time that he founded the Huazang Dharma Sect. Wu Zeheng left the temple for Beijing, where he became involved in a host of endeavors with the purpose of furthering the Huazang Mission.¹³ He also worked to promote traditional Chinese medicine and an alternative organization to the Chinese Qigong Society.¹⁴ As a teacher, Wu Zeheng stresses both the understanding and practice of Buddhist doctrine. From 1990-1998, Wu Zeheng taught Huazang Mind Dharma and helped people by treating their illnesses. In this context, he developed his theory of “Harmonious Unification” and summarized the principles of life consciousness, perfection of character, and standardization of actions.¹⁵

In 1998, while observing the social unrest and ideological turmoil in China at that time, Wu Zeheng submitted a letter to the Communist Party outlining recommendations for reform. In response to Wu Zeheng’s first letter, the Chinese Government immediately began monitoring his activities and interrogating his staff. In short, the Government appeared concerned – even though Wu Zeheng had made clear he had no political ambitions – that Wu Zeheng himself would personally bring about the turbulence that he had warned of if the Chinese Communist Party failed to meet people’s expectations. He sent a further letter to Chinese President Jiang Zemin on July 9, 1999, where he said that unless the government reformed, it would be at risk of collapse because of its lack of responsiveness to the concerns of the Chinese people.¹⁶

3. First Detention of Wu Zeheng

A short time later, on July 31, 1999, Wu Zeheng was officially taken into custody by the Beijing Municipal Public Security Bureau. On September 10, after some 44 days in custody, Wu Zeheng was notified in his arrest warrant that he was suspected of “being involved in illegally collecting money from the populace.” This was later changed to “illegally raising funds,” and ultimately to the “issuance of unauthorized shares and performing illegal operations.” Over the course of the four-month detention between his arrest and trial, Wu Zeheng was interrogated daily and subjected to severe and prolonged sleep deprivation.¹⁷

can be oral, scriptural, through signs, or directly from one mind to another. Several branches of Buddhism maintain records of their historical teachers, which serve as validation for the living exponents of the tradition.

¹² See *Biography of Wu Zeheng*, available at <http://www.china12841.org/about.php>.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Wu Zeheng, Partial Oral Record (1999-2010 Detention and Imprisonment) (original in Chinese).

Wu Zeheng and his colleagues' trial began on November 2, 2000. As the court session opened, Wu Zeheng recalled an extraordinary exchange with the Judge:

He said to me "Master Wu, you know what the verdict will be, so please don't blame me. I will treat you to dinner after the trial – we will have dinner, my treat." I said to him, "Let's not bother to have dinner. What you have told me is good enough." The Judge went on to say "[w]e were told [your sentence] must be over ten years. We can't disobey. We decided to sentence you to eleven years."¹⁸

There was only one court session. The court later issued its verdict on December 20, 2000. The court explicitly acknowledged it had "refused to verify relevant evidence presented by [the defendants'] counsel as they cannot confirm the facts in this case." Without considering the evidence presented by the defendants, the court concluded that Wu Zeheng was guilty of engaging in an illegal operation.¹⁹ Wu Zeheng was convicted and sentenced to 11 years imprisonment by Beijing No. 1 Intermediate Court for "illegally issuing stock" and "illegally operating a business." In addition, he received two-years deprivation of political rights and was fined 2.5 million Yuan (\$302,000). Based on his pre-trial detention, he was scheduled for release on July 30, 2010.²⁰ On appeal to the Beijing Higher People's Court, Wu Zeheng's lawyer made a range of arguments, but the appeal was swiftly rejected on November 2, 2001.²¹

Wu Zeheng suffered immensely in prison, facing repeated and extensive torture. Specifically, he was subjected to prolonged sleep deprivation and interrogations, beatings, slave-labor conditions, and denied access to medical care.²²

4. Harassment, Monitoring, and Persecution Since Release

On February 28, 2010, after enduring 10 years of terrible mistreatment, Wu Zeheng was released from prison. Since his release, Wu Zeheng has been under close surveillance from the Guangdong Public Service Bureau and has also been subjected to various forms of ongoing persecution.²³ Notably, Wu Zeheng has been met at the airport, followed, and forced to return home during his travels;²⁴ forced to cancel his birthday party; forced to allow his home to be

¹⁸ The name of the judge is being kept confidential to protect Wu Zeheng. *See id.*

¹⁹ Criminal Verdict Regarding Wu Zeheng, Li Jingying, and Wu Jie, Beijing No. 1 Intermediate People's Court (2000), No. 2377.

²⁰ *Id.*

²¹ *Id.*

²² Wu Zeheng, Partial Oral Record, *supra* note 17.

²³ *Annual Report 2011*, CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA, Oct. 10, 2011, at 62 (noting "The Buddhist leader Wu Zeheng reportedly has been beaten, harassed, and prevented from participating in a Buddhist celebration by authorities in Guangdong Province following his release from prison in February 2010"); *see also Three Documents Related to the Case of Buddhist Leader Wu Zeheng*, HUMAN RIGHTS IN CHINA, Sep. 22, 2011, available at <http://www.hrichina.org/content/5574>.

²⁴ Interview with Yong Min, Executive Director, Harmonious Peace and Development Foundation, Sep. 21, 2011 (based on information provided by supporters of Wu Zeheng).

stormed and searched without a warrant by policemen;²⁵ beaten by a police officer; and warned not to participate in Buddhist ceremonies or to have his students visit him.²⁶ In addition to this harassment, commercial properties that Wu Zeheng co-owns have been raided by police without a warrant, and been subject to the search and seizure of thousands of dollars worth of Buddhist-worship merchandise.

Despite his consistent persecution, Wu Zeheng has persevered in his efforts to contribute to society and to continue his mission as a religious leader. Besides his daily online teachings, he has launched initiatives such as Fasting for Charity, Do a Good Deed Every Day, and Caring for Fellow Citizens. Unfortunately, the local Government continues to suspect Wu Zeheng of harboring political ambitions and has labeled Wu Zeheng's religious teachings on Dharma as spiritual brainwashing. His charitable activities and businesses have been accused of causing harm to society. Wu Zeheng has periodically tried to start a personal website or blog, but the Chinese authorities have consistently shut down all of his attempts.²⁷

5. Current Detention of Wu Zeheng and His Associates

On July 29, 2014, police staged a coordinated raid on a number businesses and living compounds run by Wu Zeheng's religious group, Huazang Dharma. Around 11:00 pm, approximately 100 armed and regular police rushed into the Yinshi Yayuan condominium complex to search the residents. They conducted an illegal search (without a warrant) of Wu Zeheng's home, disturbing a gathering of Wu Zeheng and nineteen of his students. The police knocked violently on the door, and without waiting for anyone to open it, they broke it open.

More than 20 uniformed policemen and more than 10 plainclothes police officers broke into Wu Zeheng's apartment. They shouted, "Don't move!" and forced Wu Zeheng and his unarmed students to lie down on the floor. Two armed policemen searched Wu Zeheng's bedroom on the second floor, knocking down the door to gain access. They also injured Wu Zeheng's 71-year-old mother, who struggled to protect her son; pulling her roughly and injuring her left arm. Some of Wu Zeheng's students refused to lie down, so the police forced them to do so. Everyone in the group had their mobile phones confiscated, and most members of the group were handcuffed with nylon flex cuffs. The police then searched the homes of several of Wu Zeheng's students. Without any warrants, they proceeded to arrest Wu Zeheng and detain nearly 50 others, including 20 children.

²⁵ The name of the senior official is being kept confidential to protect Wu Zeheng. *See Wu Arrested on His Birthday*, available at http://china12841.org/gallery_show.php?aid=10.

²⁶ *Id.*; see also Interview with Yong Min, Executive Director, Harmonious Peace and Development Foundation, Sept. 21, 2011 (based on information provided by supporters of Wu Zeheng).

²⁷ *See Wu Zeheng*, available at <http://china12841.blog163.com>.

While the majority of detainees have been released, Wu Zeheng and eighteen others are still being held at various detention centers around the city of Zhuhai. Specifically, Wu Zeheng is being held at Zhuhai No. 2 Detention Center along with three other male associates. The other fifteen people are being held at Zhuhai No. 1 Detention Center. In the first 24 hours of his detention Wu Zeheng was kept awake for 16 hours, denied all food and water, and consecutively questioned by four different groups of police officers. There are two police officers, who regularly interview him, sometimes take him to the corner of the room, as to be out of view of the security camera, and express that they personally have no bad intentions toward him. He is currently being held in a small cell with no bed or bedding materials, and forced to sleep on a hard floor. He has been denied access to medication and warm clothing. Other details of his current situation in detention are unknown. The other eighteen detainees are being held in overcrowded rooms where they must take turns laying down to sleep. Previous attempts made by family members to deliver warm clothes to the detention centers have been denied.

Immediately after Wu Zeheng's detention was reported in the *New York Times*, a Chinese state-run legal newspaper, *Legal News* (Guangdong Province), wrongly accused Wu Zeheng and his associates of being cultic and committing criminal activities that pose a threat to society. The article describes Huazang Dharma as an "illegal organization" that is currently under investigation by the Zhuhai Police Security Bureau. The article falsely alleges that Wu Zeheng "tak[es] advantage of his followers' trust and forc[es] them to take orders." Building on prior accusations by prison officials that Wu Zeheng's religious teachings are "evil", the Chinese Government has continued to target Wu Zeheng for his religious practices, as well as targeting other followers of the religion more broadly. In the aftermath of Wu Zeheng's detention, media outlets, such as *Metropolis Daily*, *Southern Daily*, and the Guangdong TV station, have continued to discredit Wu Zeheng by dishonestly claiming that he used Huazang Dharma to enrich himself and rape female students. In August 2014, a group of 26 Chinese lawyers came together and released a statement condemning this defamation of character.

On September 5, 2014, 36 days after Wu Zeheng and his associates' original arrest, the Zhuhai Public Security Bureau (PSB) formally presented its legal arrest notice, citing "suspicion of using a cult organization to undermine the full implementation of law enforcement" as the reason for the arrest under Article 300 of the Chinese Criminal Law. When Wu Zeheng and the other associates were arrested, however, they were all told different reasons for the PSB's suspicion, such as drug possession. In addition, while the detained have been officially informed of the charges brought against them, no one, including their lawyers, has been able to see a physical copy of the arrest warrant.

B. Legal Analysis

For the reasons set forth below, the detention of Wu Zeheng constitutes an arbitrary

deprivation of his liberty²⁸ under Category II, Category III, and Category V as set forth by the United Nations Working Group on Arbitrary Detention (Working Group).

1. Category II: Substantive Fundamental Rights

An arbitrary detention falls under Category II when detention results from the exercise of fundamental rights protected by international law.²⁹ These fundamental rights include the right to freedom of expression, religion, and association.³⁰ Wu Zeheng's detention is arbitrary under Category II because it resulted from his exercise of these fundamental freedoms, as detailed below.

Though China has yet to ratify the International Covenant on Civil and Political Rights (ICCPR), it is a signatory,³¹ and therefore is obligated to refrain from acts that would defeat the treaty's "object and purpose."³²

It is worth emphasizing at the outset, that the Chinese government's treatment of Wu Zeheng himself follows a very similar fact pattern as the UN Working Group on Arbitrary Detention's Opinion No. 6/2010 in *Thadeus Nguyen Van Ly v. Vietnam*. In that case, a Vietnamese Catholic priest who was both a religious and a vigorous advocate for religious freedom and human rights was detained under an overbroad national security statute which prohibited the dissemination of propaganda against the government. In that case, the Working Group found violations of his rights to freedom of opinion, expression, and association under

²⁸ An arbitrary deprivation of liberty is defined as any "depriv[ation] of liberty except on such grounds and in accordance with such procedures as are established by law." International Covenant on Civil and Political Rights, G.A. Res 2200A (XXI), 21 U.N. GAOR Supp. (No. 16), at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force 23 March 1976, at art. 9(1) [hereinafter *ICCPR*]. Such a deprivation of liberty is specifically prohibited by international law. *Id.* "No one shall be subjected to arbitrary arrest, detention or exile." Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810, at art. 9 (1948) [hereinafter *Universal Declaration*]. "Arrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law." Body of Principles for the Protection of Persons under Any Form of Detention or Imprisonment, at Principle 2, G.A. Res. 47/173, Principle 2, 43 U.N. GAOR Supp. (No. 49) at 298, U.N. Doc. A/43/49 (1988) [hereinafter *Body of Principles*].

²⁹ Specifically, a Category II deprivation of liberty occurs, "[w]hen the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20, and 21 of the Universal Declaration of Human Rights and, and insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26, and 27 of the International Covenant on Civil and Political Rights." Office of the High Comm'r for Human Rights, United Nations, Fact Sheet No. 26: The Working Group on Arbitrary Detention, pt. IV(B) [hereinafter *Fact Sheet No. 26*].

³⁰ *Universal Declaration*, *supra* note 28, at art. 20(1); *ICCPR*, *supra* note 28, at art. 22(1).

³¹ China became a signatory to the ICCPR on October 5, 1998. Office of the United Nations High Commissioner for Human Rights, *Status of Ratification of the Principal International Human Rights Treaties, as of 14 July, 2006*, available at <http://www2.ohchr.org/english/bodies/docs/status.pdf>.

³² Vienna Convention on the Law of Treaties, *opened for signature* May 23, 1979, art. 18, 1155 U.N.T.S. 331 (entered into force Jan. 27, 1980).

Articles 18, 19, and 22, among others, just as is requested here.³³

a. The Chinese Government Detained Wu Zeheng Because He Exercised the Right to Freedom of Expression

Freedom of opinion and expression are protected by Article 19(1) of the ICCPR³⁴ and Article 19 of the Universal Declaration of Human Rights (UDHR).³⁵ Freedom of expression includes the “freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”³⁶ In addition to the requirements of international law, Chinese law protects the right of freedom of expression. Article 35 of the Chinese Constitution provides that, “[c]itizens of the Peoples Republic of China enjoy freedom of speech [and] of the press . . .”³⁷ and Article 41 thereof provides that they “have the right to criticize and make suggestions regarding any state organ or functionary.”³⁸

Ever since Wu Zeheng published the open letters to the Chinese Government criticizing its corruption in 1998 and 1999, he has been targeted and persecuted by Government officials. In his first letter Wu Zeheng stated:

³³ *Thadeus Nguyen Van Ly v. Vietnam*, UN Working Group on Arbitrary Detention, Opinion No. 6/2010, Adopted May 6, 2010 (Note, Rev. Ly was represented in that case by Jared Genser, who is also counsel to Wu Zeheng and his associates).

³⁴ *ICCPR*, *supra* note 28, at art. 19(1).

³⁵ While the Universal Declaration, as a General Assembly resolution, is not technically considered binding in its entirety on all states, scholars continue to debate the binding nature of specific provisions. As a General Assembly resolution, the Body of Principles is similarly not legally binding. However, in looking to the Universal Declaration and the Body of Principles, the Working Group has decided to “rely heavily on soft” international legal principles to adjudicate individual cases.” Jared M. Genser & Margaret Winterkorn-Meikle, *The Intersection of Politics and International Law: The United Nations Working Group on Arbitrary Detention in Theory and Practice*, 39 Colum. Hum. Rts. L. Rev. 101, 114 (2008); *Universal Declaration*, *supra* note 28, at art. 19.

³⁶ *Universal Declaration*, *supra* note 28, at art. 19 (“Everyone shall have the freedom of opinion and expression; this rights includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”) *See also ICCPR*, *supra* note 28, at art 19(2) (“Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice”).

³⁷ XIAN FA, art. 35 (1982) (P.R.C.),

<http://www.cecc.gov/pages/newLaws/constitutionENG.php?PHPSESSID=a87bd0448bea46b35a7c1a60ee1de976> (last visited Oct. 21, 2010) (*hereinafter* XIAN FA).

³⁸ *Id.*, at art. 41. The Chinese Constitution also provides that “[t]he exercise by citizens of the People's Republic of China of their freedoms and rights may not infringe upon the interests of the state, of society and of the collective, or upon the lawful freedoms and rights of other citizens.” *Id.*, at art. 51. However, this limiting provision cannot allow the government to restrict the right to freedom of expression below the standard established by its international obligations.

At this momentous time, as I see fellow-countryman embracing the twenty-first century with great enthusiasm, I find myself deeply concerned about various abuses existing in our society The suspicion of and dissatisfaction with the party, specifically officials at all levels of the CPC, increases daily, among all parts of the society A political belief crisis of the people is emerging. In the resulting ideological turmoil, corruption of all kinds, including neo-bureaucratism, bribery, money-power collusion, and malfeasance of duty, worsens since the establishment of country, reaching the top levels of government.³⁹

And in his second letter, a year later, he wrote:

I pursue the course I do, understanding that the bureaucratic ideology that dominates governmental action in China is causing more and more discontent among the people, as citizen are denied the right to be heard, and inevitably will lead to conflict between the people and the government. If an appropriate solution is not found, one day the government will collapse. As the Chinese proverb warns: “ Miles of levees can be destroyed by a small hole.”⁴⁰

Though Wu Zeheng was exercising his fundamental legal right, as guaranteed by both international and domestic Chinese law, to express his opinion, he was sentenced to eleven years of jail following the letters’ publication. His detention was in direct violation of international human rights law, as freedom of expression also includes the right to a dissenting political opinion.⁴¹ As the Human Rights Committee observed:

[T]he freedoms of information and of expression are cornerstones in any free and democratic society. It is in the essence of such societies that its citizens must be allowed to inform themselves about alternatives to the political system/parties in power, and that they may criticize or openly and publicly evaluate their Governments without fear of interference or punishment⁴²

Even after serving ten-and-a-half years in prison, Wu Zeheng continues to be harassed

³⁹ Wu Zeheng, *Letter from Wu Zeheng to the Central Committee of the CPC and State Council*, Nov. 20, 1998, available at http://www.hrichina.org/sites/default/files/attachments/story/1998eng_ltr_from_wu_to_cpc.pdf.

⁴⁰ Wu Zeheng, *Letter from Wu Zeheng to President Jiang Zemin, Prime Minister Zhu Rongji, and Chinese Community Party of Central Committee*, Jul. 9, 1999, available at http://www.hrichina.org/sites/default/files/attachments/story/1999engler_from_wu.pdf.

⁴¹ *Human Rights Committee General Comment No. 34 (2011) on Article 19: Freedom of Expression*, Sep. 12, 2011 (adopted at 102nd session July 11-29, 2011), CCPR /C/GC/34 at ¶ 11.

⁴² *Aduayom et al. v. Togo*, Communications Nos. 422/1990, 423/1990 and 424/1990, U.N. Doc. CCPR/C/51/D/422/1990/423/1990 and 424/1990 (1996) at ¶ 7.4 (emphasis added). See also *de Morais v. Angola*, Communication No. 1128/2002, U.N. Doc. CCPR/C/83/D/1128/2002 (2005) at ¶ 6.7.

and persecuted by the Chinese Government as a result of his past expression and opinion and for his continued role as a leader and teacher in the Huazang Dharma religious community. This consistent persecution, most recently realized in his current detention, is in clear violation of his right to the freedoms of expression and opinion and thus, renders his detention arbitrary under Category II.

b. The Chinese Government Detained Wu Zeheng and His Associates Because They Exercised the Right to Freedom of Religion

Article 18 of the ICCPR provides that “[e]veryone shall have the right to freedom of thought, conscience, and religion.” Article 18 of the UDHR provides the same right. This right includes freedom to have or to adopt a religion or belief of one’s choice, and freedom, either individually or in a community with others and in public or private, to manifest this religion or belief in worship, observance, practice and teaching.”⁴³ The Human Rights Committee has highlighted the importance of this right, interpreting it as “far reaching and profound” and “encompass[ing] freedom of thought on all matters, personal conviction and the commitment to religion or belief, whether manifested individually or in a community with others.”⁴⁴ Moreover, “[t]he freedom to manifest religion or belief in worship, observance, practice and teaching encompasses a broad range of acts.”⁴⁵ The Constitution of China also protects this right. “Citizen’s of the People’s Republic of China enjoy freedom of religion. No state organ, public organization, or individual . . . may . . . discriminate against citizens because they do, or do not, believe in religion.”⁴⁶

However, the Chinese Government limits this protection to five state-sanctioned religious organizations which the Government deems to constitute “normal religious activity”: the Buddhist Association of China, Chinese Taoist Association, Islamic Association of China, Three-Self Patriotic Movement and Chinese Patriotic Catholic Association.⁴⁷ While the Chinese Government may claim that by offering protection to these five groups it is guaranteeing freedom of religion, in fact the Government is violating many others’ right to choose a religion apart from these five – a right which is protected under international law. Therefore, the application of Chinese law with this stipulation is a violation of international law.

⁴³ *ICCPR*, *supra* note 28, at art 18(1); *see also*, *UDHR*, *supra* note 28, at art. 18: —Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

⁴⁴ UN Human Rights Committee, *CCPR General Comment No. 22: Article 18, Freedom of Thought, Conscience or Religion*, ¶ 1 (30 Jul. 1993).

⁴⁵ *Id.*, at ¶ 4.

⁴⁶ *XIAN FA*, art. 36.

⁴⁷ *2014 Annual Report*, Congressional-Executive Commission on China, Oct. 2014.

The Chinese Government is prosecuting Wu Zeheng and his associates under Article 300 of Chinese Criminal Law, which forbids “evils cults” or “superstitious sects or secret societies or weird religious organizations, which, use superstition to undermine the implementation of the laws and administrative rules and regulations of the State.” Though the law never explicitly mentions religion, it is an overbroad national security statute whose purpose is essentially to allow the Chinese government to arbitrarily oppress religious groups that it deems threatening for any reason or no reason whatsoever.

The Chinese Government’s has labeled Wu Zeheng and the followers of the Buddhist Sect of Huazang Dharma as members of an evil cult with the intent of limiting their legitimate religious expression. The Chinese Government’s targeting of Wu Zeheng and his associates because of their religious affiliation is in direct violation of international and domestic law.

The only reason for the current detention of Wu Zeheng and his associates is their religious affiliation and the Chinese Government has tried to obscure this obvious violation of human rights by labeling the entire Buddhist sect as an evil cult. This persecution is part of a heightened campaign against religion that has occurred in the past two years and included a public list of “evil cults” published by a state-sponsored newspaper.⁴⁸ Huazang Dharma is just another target of Chinese Government discrimination. This is evidenced by the fact that the Chinese Government labeled it as an evil cult only after Wu Zeheng published his letter. As a result, not only have his associates been personally punished, but any business affiliated with the religion or led by a follower of the religion has been targeted as well. This persecution of Wu Zeheng and his associates based on religion is in clear violation of the right to freedom of religion and renders their detention arbitrary under Category II.

c. The Chinese Government Detained Wu Zeheng and His Associates Because They Exercised the Right to Freedom of Association

Article 22(1) of the ICCPR provides that “[e]veryone shall have the right to freedom of association with others”⁴⁹ Further, Article 20(1) of the UDHR provides that “[e]veryone has the right to freedom of peaceful assembly and association.”⁵⁰ Similarly, Chinese law also ensures the right to freedom of association. Article 35 of the Constitution of the People’s Republic of China affirms that “[c]itizens of the People’s Republic of China enjoy the freedom . . . of association.”⁵¹

Despite these protections, it is evident that the Government singled out Wu Zeheng and

⁴⁸ Bethany Allen-Ebrahimian, *Chinese State Media Warns Against 14 ‘Evil Cults,’* FOREIGN POLICY, Jun. 6, 2014, available at <http://foreignpolicy.com/2014/06/06/chinese-state-media-warns-against-14-evil-cults/>.

⁴⁹ ICCPR, *supra* note 28, at art. 22(1).

⁵⁰ *Universal Declaration*, *supra* note 28, at art. 20(1).

⁵¹ XIAN FA, art. 35.

his associates because they are all in some way related to Wu Zeheng and his religion. Wu Zeheng and his associates regularly convene together to practice their religion, to engage in business endeavors relating to making religious teachings and objects available to followers, and to interact as family and friends might. Government officials actively sought to detain all of them because of these associations; this violates their right to freedom of association under international and Chinese law and thus renders their detention arbitrary under Category II. Though Wu Zeheng has tried to live in peace and stay out of Chinese politics, the Chinese Government has systemically persecuted him and his associates. On the day of their arrest, many were convened at Wu Zeheng's house and at their places of business. The Government is simply detaining Wu Zeheng and the others because of their association with Wu Zeheng, a clear violation of their right to freedom of association under domestic and international law.

2. Category III: Due Process Rights

The Working Group considers a deprivation of liberty to be a Category III arbitrary detention “[w]hen the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights [(Universal Declaration)] and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character.”⁵² Additionally, the Working Group will look to the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment (Body of Principles).⁵³ Because the Chinese Government violated a litany of procedural requirements under domestic and international law in this case, the continued detention of Wu Zeheng is arbitrary under Category III.

a. The Chinese Government Tortured Wu Zeheng

1. Violations of International Law

Article 5 of the Universal Declaration and Article 7 of the International Covenant on Civil and Political Rights (ICCPR) both state that “[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”⁵⁴ Principle 24 of the Body of Principles further elaborates that “medical care and treatment shall be provided whenever necessary” to persons who are detained or imprisoned.⁵⁵ The Working Group may consider mistreatment

⁵² *Fact Sheet No. 26*, *supra* note 29, pt. IV(B).

⁵³ *Id.*

⁵⁴ *Universal Declaration*, *supra* note 28, at art. 5; *ICCPR*, *supra* note 28, at art. 7.

⁵⁵ *Body of Principles*, *supra* note 28, at Principle 24. The UN Human Rights Committee also cautions against the use of “statements or confessions obtained through torture.” UN Human Rights Committee (HRC), *General Comment no. 20: Replaces General Comment 7 Concerning Prohibition of Torture and Cruel Treatment or Punishment (Art. 7)*, ¶ 12, March 10, 1992, *available at*

[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/6924291970754969c12563ed004c8ae5?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/6924291970754969c12563ed004c8ae5?Opendocument). Similarly, several provisions of Article 14 of the ICCPR outline procedural rights that may not be taken away through the

“insofar as it is used to obtain a confession of guilt of the pretrial detainee or otherwise impairs his or her exercise of the right to a proper defense.”⁵⁶

The Chinese Government’s actions towards Wu Zeheng have violated these international standards. After he was detained, officials tortured Wu Zeheng through the deprivation of food and sleep. He was kept awake for 16 hours at first and repeatedly questioned by four different groups of police officers. He is currently being held in a small cell with no bed or bedding materials, and forced to sleep on a hard floor. He has also been denied access to medication and warm clothing.

2. Violations of Domestic Law

Chinese law specifically prohibits the mistreatment of detainees by law enforcement⁵⁷ and imposes criminal liability where that prohibition is violated. Article 247 of the Chinese Criminal Procedure Code stipulates that a public security official who uses torture or violence to obtain a confession from a criminal suspect may be sentenced to up to three years in prison.⁵⁸ If the resulting injury is severe, that official may be sentenced to anywhere from three to ten years in prison; if the resulting injury ends in death, or if particularly cruel methods were used in carrying out the injury, and the injury results in severe disability, the official may even be sentenced to life in prison without parole or the death penalty.⁵⁹ In addition to imposing criminal penalties against officials who engage in torture, the Chinese Criminal Procedure Code specifically prohibits the use of evidence obtained through torture. Article 54 provides that “[a] confession of a criminal suspect or defendant extorted by torture or obtained by other illegal means... shall be excluded.”

Despite the prohibition on the use of torture under Chinese law, authorities subjected Wu Zeheng to torture during his detention. Moreover, the Government also failed to investigate and prosecute those responsible for this mistreatment of Wu Zeheng.

b. The Chinese Government Conducted an Illegal Search and Arrest

coercive use of torture, including Article 14(3)(g), which specifies the right of a person “[n]ot to be compelled to testify against himself or to confess guilt.” *ICCPR*, *supra* note 28, at art. 14(3)(g).

⁵⁶ “The Working Group has repeatedly held that investigation of allegations of ill-treatment inflicted upon detainees in violation of the prohibition of torture and the right to physical integrity generally falls within the scope of its mandate only insofar as it is used in order to obtain a confession of guilt of the pretrial detainee or otherwise impairs his or her exercise of the right to a proper defense.” Communication No. 16/2008.

⁵⁷ Article 50 of the Criminal Procedure Code provides that “It shall be strictly prohibited to extort confessions by torture, gather evidence by threat, enticement, deceit, or other illegal means, or force anyone to commit self-incrimination.” Criminal Code of the People’s Republic of China (Criminal Code) at art. 50, *available at* <http://law.moj.gov.tw/Eng/LawClass/LawAll.aspx?PCode=C0000001> (hereinafter *Criminal Procedure Code*).

⁵⁸ *Criminal Procedure Code*, *supra* note 57, at art. 247.

⁵⁹ *Id.*

1. Violations of International Law

The Chinese authorities failed to promptly inform Wu Zeheng and his associates of the charges against them at the time of their arrest, in violation of international law. Article 9(2) of the ICCPR and Principle 10 of the Body of Principles require that “[a]nyone who is arrested shall be informed, at the time of the arrest, of the reasons for his arrest and shall promptly be informed of any charges against him.”⁶⁰ The Government failed to correctly inform Wu Zeheng of the reason for his arrest at the time he was detained on July 30. Instead, the Government waited until September 5 to issue a formal arrest warrant outlining the charges against him. Such an unreasonably long period of time fails to meet the requirement of prompt notice under international law.

2. Violations of Chinese Law

The Chinese authorities violated Chinese law when they entered and searched Wu Zeheng’s apartment and the businesses of his associates without a warrant. Under the Criminal Procedure Code, the Zhuhai Public Security Bureau committed a number of procedural violations when they (1) unlawfully entered the home of Wu Zeheng on July 29-30, 2014 and (2) ordered the arrest of Wu Zeheng without presenting a warrant or legal documentation. According to Article 245 of the Criminal Procedure Code, anyone who illegally searches a person's body or domicile, or illegally enters a person's domicile, is subject to a sentence of up to three years in prison or detention.⁶¹ Under Articles 3, 83, and 91 of the Criminal Procedure Code, public security authorities are legally required to produce a search warrant when arresting or detaining suspects.⁶² Additionally, Articles 109 (reports on criminal suspects and accusations) and 111 (failure to open a case for criminal investigation) of the Criminal Procedure Code, as well as Article 178 of the Rules and Regulations for Criminal Procedure Law for People’s Prosecutor’s Office, mandates that public security officials present a search warrant.⁶³

Although Chinese law specifically requires warrants when police conduct searches and arrest suspects, the Zhuhai Public Security Bureau stormed Wu Zeheng’s home and forcibly detained nearly 50 people, damaging Wu Zeheng’s home in the process, all without the requisite warrant. Indeed, it appears that the individuals involved took no steps to ensure that their actions complied with the requirements of domestic law.

c. The Chinese Government Failed to Afford Wu Zeheng and Associates

⁶⁰ *ICCPR*, *supra* note 28, at art. 9(2); *Body of Principles*, *supra* note 28, at Principle 10.

⁶¹ *Criminal Procedure Code*, *supra* note 57, at art. 245.

⁶² *Id.*, at art. 3, 83, and 91.

⁶³ *Id.*, at art. 109, 178; Rules and Regulations for Criminal Procedure law for People’s Prosecutor’s Office, at art. 178.

the Presumption of Innocence

The ICCPR affords individuals “the right to be presumed innocent until proved guilty according to law.”⁶⁴ The Human Rights Committee has noted that the presumption of innocence is expressed in unambiguous terms, and “the burden of proof of the charge is on the prosecution and the accused has the benefit of doubt. No guilt can be presumed until the charge has been proved beyond reasonable doubt. Further, the presumption of innocence implies a right to be treated in accordance with this principle. It is, therefore, a duty for all public authorities to refrain from prejudging the outcome of a trial.”⁶⁵ Article 12 of the Chinese Criminal Procedure Code also protects the presumption of innocence by stating, “No person shall be found guilty without being judged as such by a People's Court according to law.”⁶⁶

In the case of Wu Zeheng and his associates, the state-run newspapers published libelous information about them after their arrest. Specifically, *Legal News* (Guangdong Province) accused Wu and his associates of running a cult and committing criminal activities that pose a threat to society. The article describes Huazang Dharma as an “illegal organization” that is currently under investigation by the Zhuhai Police Security Bureau.⁶⁷ The article alleges that Wu “tak[es] advantage of his followers’ trust and forc[es] them to take orders.”⁶⁸ Building on prior accusations by prison officials that Wu’s religious teachings are “evil”, the Chinese government has continued to target Wu for his religious practices as well as his followers more broadly. In the aftermath of Wu’s detention, media outlets, such as *Metropolis Daily*, *Southern Daily*, and the Guangdong TV station have continued to discredit Wu by claiming that he used Huazang Dharma to enrich himself and rape female students, crimes with which he has never been charged. In August 2014, a group of 26 Chinese lawyers, led by his domestic counsel, came together and released a statement condemning this defamation of character.⁶⁹

As these accusations are wholly untrue and made by a government-run newspaper, this is the equivalent of the Chinese Executive Branch declaring Wu and his associates guilty before any of the detainees were officially charged, let alone convicted. Such defamatory and dangerous accusations made by a state-sponsored newspaper are in direct violation of international law concerning the right to the presumption of innocence and thus, reaffirms that their detention is arbitrary under Category III.

⁶⁴ ICCPR, *supra* note 28. This same right is established by the Universal Declaration Article 11(1): “Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.”

⁶⁵ ICCPR, *supra* note 28, at 308 (emphasis added).

⁶⁶ *Criminal Procedure Code*, *supra* note 57, at art. 12.

⁶⁷ *Zhuhai Police Investigate “Huazang Dharma” as Illegal Organization*, LEGAL NEWS (Guangdong Province), Aug. 5, 2014.

⁶⁸ *Id.*

⁶⁹ Letter on File with Author.

3. Category V: Discrimination Based on a Protected Class

The targeting of Wu Zeheng and his associates because of their religion is arbitrary under Category V.

A detention is arbitrary under Category V when, in violation of international law, the detention is discriminatory “based on . . . religion . . . and aims towards or can result in ignoring the equality of human rights.”⁷⁰ While there is yet to be significant jurisprudence from the Working Group regarding this new category, it is clear that the factual circumstances of an arrest or detention indicate that Government officials were motivated by discriminatory beliefs against a religion.⁷¹

In this case, it is evident that the Government was motivated by the religious beliefs of Wu Zeheng and his associates. As in the case of *Jalilov v. Uzbekistan*⁷², Wu Zeheng and his associates were targeted and detained because of their religious beliefs and association. In addition, the persecution experienced by the owners of businesses affiliated with the religion demonstrates that the Government of China is acting in a discriminatory nature on the basis of their religious affiliation. As such, their detention is arbitrary under Category V.

V. INDICATE INTERNAL STEPS, INCLUDING DOMESTIC REMEDIES, TAKEN ESPECIALLY WITH THE LEGAL AND ADMINISTRATIVE AUTHORITIES, PARTICULARLY FOR THE PURPOSE OF ESTABLISHING THE DETENTION AND, AS APPROPRIATE, THEIR RESULTS OR THE REASONS WHY SUCH STEPS OR REMEDIES WERE INEFFECTIVE OR WHY THEY WERE NOT TAKEN.⁷³

While the trial against Wu Zeheng and his associates has not yet begun, their lawyers are attempting to follow standard Chinese criminal procedure law to the best of their ability. Currently, the Zhuhai Public Security Bureau is still investigating the case against Wu Zeheng and his associates. Prison officials and local police officers have intentionally impeded the efforts of the lawyers in order to weaken their case by limiting their access to their clients and

⁷⁰ Revised Methods of Work, *supra* note 2, at § III(8)(e) (“When the deprivation of liberty constitutes a violation of the international law for reasons of discrimination based on birth; national, ethnic, or social origin; language; religion; economic condition; political or other opinion; gender; sexual orientation; disability or other status, and which aims towards or can result in ignoring the equality of human rights.”).

⁷¹ See, e.g., *Jalilov v. Uzbekistan*, UN Working Group on Arbitrary Detention, Opinion No. 4/2013, Adopted Jul. 25, 2013, at ¶ 76 (concerning the case of a Muslim man who advocated for the disenfranchised Muslim-minority communities in Uzbekistan, where the Working Group relied upon Category V to find that his detention was arbitrary after noting that, “The Working Group also considers that in the case Mr. Jalilov has been deprived of his liberty for being a practicing Muslim for reasons of discrimination based on religion”).

⁷² *Id.*

⁷³ See Statement of Facts above for additional details.

relevant information regarding their clients' arrests.

VI. FULL NAME AND ADDRESS OF THE PERSON(S) SUBMITTING THE INFORMATION (TELEPHONE AND FAX NUMBER IF POSSIBLE)

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